

# Ethics News

Issue No. 28

*Happy New Year!*

January 2003



## What is an Ethics Officer? (And how can he/she help you?)

There are certain employees in state government who have taken on the extra responsibility as liaisons between their agencies and the State Ethics Commission - these employees are known as Ethics Officers. Designated by their appointing authorities, Ethics Officers maintain a close relationship with the Ethics Commission concerning the agency's ethics program and assist agency heads in their ethics responsibilities. In addition, Ethics Officers counsel employees concerning ethics and standard of conduct matters; approve gifts and travel requests; and take prompt and effective action to remedy actual violations or potential violations of laws and agency policies governing the conduct of employees.

Every state employee has the right to directly contact the Ethics Commission regarding an ethics issue, so why would you first want to contact your Ethics Officer? In addition to their knowledge of the ethics rules, Ethics Officers are aware of any existing ethics policies which their agencies might have. Your Ethics Officer would be able to counsel you on any policy that might be more strict than the ethics rules. If you want to make a complaint, and the violation is minor, your Ethics Officer can handle the situation. Such situations would involve nepotism, limited use of state resources, political activity and honorarium.

### Inside...

1. [Ethics Officers](#)
2. [Enforcement](#)
3. [Unofficial Opinions](#)
4. [Ethics Classes](#)
4. [Quiz](#)

However, if you have a question concerning moonlighting, conflicts of financial interest or conflicts of interest, you may be referred to the Ethics Commission for an advisory opinion.

Every state employee is responsible for his/her actions. The role of the Ethics Officer is to provide guidance when it is sought. Seeking help before and not after you act will aid you in maintaining the highest level of public service.

From the time you receive ethics orientation until the time you leave state government, your Ethics Officer is there to help you.

Workshop for Ethics Officers  
to be held  
February 19, 2003  
10:00 - 11:30 a.m.

To register, email:  
[mhill@ethics.state.in.us](mailto:mhill@ethics.state.in.us)



Click here to find out  
who your Ethics Officer is.

Commission meetings are open to the public and held the second Thursday of the month. Normal starting time is 10:00 a.m.

## Recent Enforcement Proceedings

The State Ethics Commission approved the following reports regarding two former employees who had waived their right to a public hearing, and entered into an agreed settlement.

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### 02-C-14, Conflicts of Financial Interest

On October 10, 2002, the Commission accepted a proposed Agreed Settlement from a former oil and gas inspector for the Indiana Department of Natural Resources (DNR). During his tenure with the DNR, the former employee had responsibility for every area in southwestern Indiana.

The wife of the former employee was the managing partner of a limited liability company doing business in Indiana. Her company had acquired an interest in oil leases located in four separate oil field units in the southwestern part of the state.

In the performance of his duties, the former employee inspected 16 oil wells located on leases in which his wife had an interest. Three of the oil wells were inspected twice.

On May 10, 2002, the former employee was permitted to resign from the DNR following notice of termination from the DNR on May 2, 2002.

In the Agreed Settlement, the former employee acknowledged the charge that the inspection of oil wells in which his spouse had a financial interest constituted a violation of [IC 4-2-6-9](#), conflicts of financial interest. The former employee agreed to pay a civil penalty of: \$2,500.

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### 0-2-C-11, Conflict of Interest

On October 10, 2002, the State Ethics Commission accepted a proposed Agreed Settlement from a former state employee regarding leave time and benefits for which he was not eligible.

The former employee accepted payment for sick hours, compensatory hours, and personal leave hours beyond the end of his final pay period.

While not admitting to a violation, Respondent did not contest a finding by the Indiana State Ethics Commission that he committed a violation of [40 IAC 2-1-9\(f\)](#) when he accepted payment for sick hours, compensatory hours, and personal leave hours beyond the end of the first pay period in January 2002. Likewise, the former employee acknowledged that he was not entitled to other benefits paid by the state on his behalf after January 6, 2002. Those benefits included the state's contribution to the former employee's Public Employee Retirement account, Deferred Compensation account, life insurance, long-term disability, employee assistance plan, and dental and vision plans.

The former employee agreed to repay the state \$22,180.83 for leave time and benefits he should not have received.

## Unofficial Advisory Opinions

This article briefly reviews questions recently addressed by the Ethics Commission staff. These opinions are not intended as a comprehensive analysis of the issue raised. For more information on whether and how this information may apply in another situation, contact your agency ethics officer or the State Ethics Commission.

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### **#113, [Moonlighting, 40 IAC 2-1-8;](#) [Conflict of Interest, 40 IAC 2-1-9; Conflicts of Financial Interest, IC 4-2-6-9](#)**

The Director of Nursing at a state hospital has been asked to serve on the board of a mental health center. There would be no monetary reimbursement for board membership nor for meetings, which would be held when the Director was not on hospital duty.

The Director would refrain from voting on any issues that might be construed as a conflict of interest. Her participation would occur on her own time. The Director is aware of the prohibition against disclosure or use of hospital information of a confidential nature in the course of her service on the board. Keeping these cautions in mind, the Director may participate in this outside activity under state ethics laws.

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### **#120, [Criminal Conflict of Interest, IC 35-44-1-3](#)**

A state employee wants to contract with an environmental consulting firm assisting in a fish survey. The employee performs fish surveys as part of his regular state duties. The consulting firm that has a contract with the employee's agency would like to subcontract with the state employee to help in the survey. The proposed work would occur outside of state business hours without the use of state resources.

Since the employee's state duties are related to the consulting firm's contract, the employee is prohibited from accepting the firm's offer. Under IC 35-44-1-3, a public servant who knowingly or intentionally derives a profit from a contract or purchase connected with an action by the governmental entity served by the public servant commits conflict of interest, a class D felony.

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### **#134, [Political Activity, 40 IAC 2-1-7.1](#)**

A Corrections Officer with the Department of Corrections (DOC) would like to run for city council.

The Corrections Officer would not be prevented from seeking office under state ethics law. Employees are prohibited from disclosure or use of agency information of a confidential nature in the course of outside employment or other outside activity. If elected, the Corrections Officer would need to avoid voting on any matters involved with DOC.

Furthermore, the Federal Hatch Act does not apply to the Corrections Officer since the position of corrections officer is not a federally funded position.

## What Is Nepotism? (See how you fare in this ethics quiz!)



1. Your supervisor's sister works in the same agency as your supervisor.
2. Your supervisor directly supervises her sister.
3. Your agency head's son works in the same agency as your agency head. However, the son worked for your agency two years immediately preceding his father's appointment.
4. One of the managers in your agency has a brother-in-law who is directly supervised by one of the supervisors directly supervised by the manager.
5. Two cousins work in the same agency. You think their supervisor favors them because he is a friend of theirs.
6. Your aunt wants to apply for a position within your agency. You want to put in a good word for her even though you would not be her direct supervisor or even work in the same division.
7. Your brother who works in your agency has been promoted to supervisor which means he now will directly supervise you.

[\(Answers on page five\)](#)

### 2003 Winter/Spring Classes

#### Ethics Orientation (10:00 - 11:00 a.m.)

February 18  
Conference Center, Room 1

April 16  
Training Center, Room 2

#### Ethics for Supervisors & Managers (10:00 -12:30 p.m.)

February 26  
Conference Center, Room C

April 15  
Conference Center, Room C

Classes are in the State Conference Center or Training Center  
Indiana Government Center South  
402 W. Washington St., Indianapolis, IN

To register, call (317) 232-3850 or visit our  
Web site at [www.ethics.IN.gov](http://www.ethics.IN.gov)

Any thoughts on the newsletter?

Please send your questions or comments to: Mary Hill

email: [mhill@ethics.state.in.us](mailto:mhill@ethics.state.in.us), or

call: (317) 232-3850, or

write: Indiana State Ethics Commission

402 W. Washington St., Rm. W189

Indianapolis, Indiana 46204

For more information on ethics, log on to [www.ethics.state.in.us](http://www.ethics.state.in.us).

## IC 4-15-7-1

### Nepotism

Sec. 1. (a) No person being related to any member of any state board or commission, or to the head of any state office or department or institution, as father, mother, brother, sister, uncle, aunt, a husband or wife, son or daughter, son-in-law or daughter-in-law, niece or nephew, shall be eligible, to any position in any such state board, commission, office, or department or institution, as the case may be, nor shall any such relative be entitled to receive any compensation for his or her services out of any appropriation provided by law.

(b) This section shall not apply if such person has been employed in the same position in such office or department or institution for at least twelve (12) consecutive months immediately preceding the appointment of his relative as a board member or head of such office, department or institution.

(c) This section does not apply to the authority of the board of trustees of a state educational institution (as defined in IC 20-12-0.5-1) to employ any person the board considers necessary under IC 20-12-1-4.

(d) No persons related as father, mother, brother, sister, uncle, aunt, husband, wife, son, daughter, son-in-law, daughter-in-law, niece, or nephew may be placed in a direct supervisory-subordinate relationship.

### Answers

1. No. The two sisters may work in the same agency as long as one does not directly supervise the other.
2. Yes. Neither sister may directly supervise the other.
3. No. Since the son worked in the agency for at least twelve consecutive months immediately preceding his father's appointment, both father and son may work there.
4. No. Nepotism refers to the "direct" supervision of one relative by another. However, an agency may find it inappropriate for such a condition to exist and place one relative under a different supervisor.
5. No. This is not a case of nepotism. However, if you feel you are being treated unfairly, that would be a personnel issue.
6. No. You may put in a good word for your aunt.
7. Yes. Your brother may not be put in a position to directly supervise you. So one of you would have to be moved out of that direct supervisor/subordinate relationship.

### Rate your Score

- 7 = Perfectly Ethical  
 6 = Near Perfectly Ethical  
 5 = Have you had ethics training lately?  
 4 = You should sign up for ethics training.  
 3 = Would you like one-on-one ethics training?  
 2 = You should have one-on-one ethics training.  
 1 = Check to see if you are supervising any relatives.

